

Exhibit 19

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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NIKE, INC.,

Plaintiff,

vs.

CASE NO. 1:22-CV-00983-VEC

STOCKX LLC,

Defendant.

VIDEOTAPED DEPOSITION OF SARAH BUTLER

San Francisco, California

Tuesday, August 15, 2023

Stenographically Reported by: Ashley Soevyn,

CSR No. 12019

Job No. 5968272

Pages 1 - 224

<p style="text-align: right;">Page 2</p> <p>1 UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF NEW YORK 3 ---000--- 4 5 NIKE, INC., 6 Plaintiff, 7 vs. CASE NO. 1:22-CV-00983-VEC 8 STOCKX, LLC, 9 Defendant.</p> <hr/> <p>10 11 12 13 14 15 Videotaped Deposition of 16 SARAH BUTLER, taken on behalf of the Plaintiff Nike, 17 Inc., Pursuant to Notice, at the offices of DLA 18 Piper, 555 Mission Street, San Francisco, California 19 beginning at 8:56 a.m. and ending at 4:51 p.m. on 20 Tuesday, August 15, 2023, before me, ASHLEY SOEVYN, 21 Certified Shorthand Reporter No. 12019. 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX TO EXAMINATION 2 WITNESS: SARAH BUTLER 3 4 5 EXAMINATION BY: PAGE 6 MR. MILLER 7 7 MR. FORD 220 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S: 2 3 FOR THE PLAINTIFF NIKE INC.: 4 DLA PIPER 5 BY: MARC E. MILLER 6 BY: GABRIELLE VELKES 7 Attorneys at Law 8 1251 Avenue of the Americas, 27th Floor 9 New York, New York 10020 10 marc.miller@dlapiper.com 11 gabrielle.velkes@dlapiper.com 12 (212) 335-4500 13 14 FOR THE DEFENDANT STOCKX LLC: 15 DEBEVOISE & PLIMPTON, LLP 16 BY: CHRISTOPHER S. FORD 17 BY: MAI-LEE PICARD 18 Attorneys at Law 19 650 California Street 20 San Francisco, California 94108 21 csford@debevoise.com 22 mpicard@debevoise.com 23 (415) 738-5705 24 Also Present: 25 Cassie Leet, the Videographer</p>	<p style="text-align: right;">Page 5</p> <p>1 INDEX TO EXHIBITS 2 SARAH BUTLER 3 NIKE V. STOCKX 4 Tuesday, August 15, 2023 5 Ashley Soevyn, CSR No. 12019 6 EXHIBIT NO. DESCRIPTION PAGES 7 Exhibit 1 Expert Rebuttal Report of Sarah 18 Butler 8 9 Exhibit 2 Expert Report of John L. Hansen 81 10 11 Exhibit 3 Plaintiff Nike Inc's 157 Supplemental Responses and Objections to Defendant StockX 12 LLC's Third Set of Interrogatories 13 14 Exhibit 4 Document titled "Buy & Sell 185 Authentic Sneakers" 15 16 Exhibit 5 Document Bates No. NIKE281 - 191 NIKE287 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: right;">Page 6</p> <p>1 DEPOSITION PROCEEDINGS</p> <p>2 August 15, 2023</p> <p>3 -- --0o0--</p> <p>4</p> <p>5 THE VIDEOGRAPHER: Going on the record at</p> <p>6 8:56 a.m. on August 15th, 2023.</p> <p>7 Please note that the microphones are</p> <p>8 sensitive and may pick up whispering and private</p> <p>9 conversations. Audio and video recording will</p> <p>10 continue to take place unless all parties agree to</p> <p>11 go off the record.</p> <p>12 This is Media Unit 1 of the video-recorded</p> <p>13 deposition of Sarah Butler. Taken by counsel for</p> <p>14 plaintiff in matter of Nike Inc., versus StockX</p> <p>15 Inc., filed in the United States District Court for</p> <p>16 Southern District of New York, Case No.</p> <p>17 1:22-CV-00983-VEC.</p> <p>18 The location of this deposition is 555</p> <p>19 Mission Street, Suite 2400, San Francisco,</p> <p>20 California 94105.</p> <p>21 My name is Cassia Leet, representing</p> <p>22 Veritext Legal Solutions and I'm the videographer.</p> <p>23 The court reporter is Ashley Soevyn from</p> <p>24 the firm Veritext Legal Solutions.</p> <p>25 I'm not related to any party in this</p>	<p style="text-align: right;">Page 8</p> <p>1 Q How are you today?</p> <p>2 A I'm doing well. Thank you.</p> <p>3 Q Good. Ms. Butler, are you represented</p> <p>4 today?</p> <p>5 A I have counsel here, yes.</p> <p>6 Q Okay. And that's Counsel sitting next to</p> <p>7 you?</p> <p>8 A That's correct.</p> <p>9 Q Okay. Did you do anything to prepare for</p> <p>10 today's deposition?</p> <p>11 A Yes.</p> <p>12 Q What did you do to prepare for today's</p> <p>13 deposition?</p> <p>14 A I met with counsel who is here today,</p> <p>15 briefly yesterday. I reviewed my report. I</p> <p>16 reviewed the exhibits to my report. I reviewed the</p> <p>17 portion of Dr. Simonson's report that is responsive</p> <p>18 to my report. And I reviewed the portions of</p> <p>19 Mr. Hansen's report that I cite in my report.</p> <p>20 Q You said you met yesterday briefly with</p> <p>21 counsel?</p> <p>22 A Yes.</p> <p>23 Q Is that with Mr. Ford?</p> <p>24 A Yes.</p> <p>25 Q Anyone else?</p>
<p style="text-align: right;">Page 7</p> <p>1 action nor am I financially interested in the</p> <p>2 outcome. Would counsel and all present please state</p> <p>3 your appearances and affiliations for the record,</p> <p>4 beginning with the noticing attorney?</p> <p>5 MR. MILLER: Good morning. Marc Miller</p> <p>6 from DLA Piper, on behalf of Plaintiff Nike Inc.,</p> <p>7 and I'm joined by my colleague Gabrielle Velkes.</p> <p>8 MR. FORD: Good morning. Chris Ford,</p> <p>9 Debevoise & Plimpton, on behalf of StockX. I'm</p> <p>10 joined by my colleague Mai-Lee Picard.</p> <p>11 THE VIDEOGRAPHER: Thank you. Will the</p> <p>12 court reporter please swear in the witness.</p> <p>13 THE REPORTER: Ma'am, can I please have</p> <p>14 you raise your right hand? Do you solemnly state</p> <p>15 that the testimony you are about to give in this</p> <p>16 deposition will be the truth, the whole truth and</p> <p>17 nothing but the truth?</p> <p>18</p> <p>19 THE WITNESS: I do.</p> <p>20 THE STENOGRAPHIC REPORTER: Great. Thank</p> <p>21 you.</p> <p>22 EXAMINATION</p> <p>23 BY MR. MILLER:</p> <p>24 Q Good morning, Ms. Butler.</p> <p>25 A Good morning.</p>	<p style="text-align: right;">Page 9</p> <p>1 A Mai-Lee as well.</p> <p>2 Q And for how long did you meet yesterday?</p> <p>3 A Just maybe around three hours.</p> <p>4 Q Other than yesterday's three-hour</p> <p>5 meeting, did you have any other meetings with</p> <p>6 counsel to prepare for today's deposition?</p> <p>7 A No.</p> <p>8 Q Any phone calls?</p> <p>9 A No.</p> <p>10 Q You've been deposed before, correct?</p> <p>11 A Yes.</p> <p>12 Q About how many times have you been</p> <p>13 deposed?</p> <p>14 A Probably over 100.</p> <p>15 Q Okay. And you've testify at trial</p> <p>16 before, correct?</p> <p>17 A Yes.</p> <p>18 Q How many times?</p> <p>19 A At trial, probably, maybe 15 or so times.</p> <p>20 Q In the matters for which you've been</p> <p>21 designated as an expert, has a court ever found you</p> <p>22 not qualified to serve as an expert report?</p> <p>23 A No.</p> <p>24 Q For the matters in which you've been</p> <p>25 designated as an expert has the court ever found</p>

<p style="text-align: right;">Page 26</p> <p>1 Q Anything else in the expert analysis and</p> <p>2 testimony category that you would add?</p> <p>3 A And I had a Daubert hearing -- sorry, for</p> <p>4 the Florida Virtual School v. K-12 on the bottom of</p> <p>5 page 4.</p> <p>6 Q Did you testify at that hearing?</p> <p>7 A I did. I think that's it.</p> <p>8 Q Turning to page 15 of your CV, do you</p> <p>9 have anything to add to the publications and</p> <p>10 presentations of this CV since this was served?</p> <p>11 A No, I don't believe so.</p> <p>12 Q Okay.</p> <p>13 A Oh, sorry. I -- I gave a presentation on</p> <p>14 the use of surveys at the NABE, which I think is the</p> <p>15 National Association of Business Economics, in</p> <p>16 Washington, D.C. about two weeks ago.</p> <p>17 Q Okay. Anything else?</p> <p>18 A No, I don't believe so.</p> <p>19 Q So turning back to page one of your CV.</p> <p>20 A Okay.</p> <p>21 Q The first paragraph says:</p> <p>22 (As read):</p> <p>23 "Ms. Butler is an expert in survey</p> <p>24 research, market research sampling and</p> <p>25 statistical analysis."</p>	<p style="text-align: right;">Page 28</p> <p>1 Q Turning back to page one of your CV,</p> <p>2 underneath that first paragraph, there's a heading</p> <p>3 that says Intellectual Property?</p> <p>4 A Yes.</p> <p>5 Q And the first bullet point says:</p> <p>6 (As read):</p> <p>7 "Trademark and trade dress</p> <p>8 infringement. Design analysis and</p> <p>9 critique of surveys used to measure</p> <p>10 consumer confusion, secondary meaning,</p> <p>11 and dilution, and trademark and trade</p> <p>12 design infringement cases."</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q Are you offering an expert opinion in any</p> <p>16 of those categories in this case?</p> <p>17 A If by "those categories," you mean</p> <p>18 consumer confusion, secondary meaning, and dilution,</p> <p>19 no, I'm not offering an opinion related to</p> <p>20 confusion, secondary meaning, or dilution -- or I</p> <p>21 should say, trademark or trade dress confusion.</p> <p>22 Q Okay. And under the second bullet below</p> <p>23 that, it says:</p> <p>24 (As read):</p> <p>25 "False and misleading advertising."</p>
<p style="text-align: right;">Page 27</p> <p>1 Are you acting as an expert in any one of</p> <p>2 those categories in this engagement?</p> <p>3 A Sure. I conducted a survey, so I think</p> <p>4 I'm presenting survey research in this matter.</p> <p>5 Q Are you presenting an expert opinion in</p> <p>6 the field of market research in this matter?</p> <p>7 A Outside of the context of the survey that</p> <p>8 I conducted? I haven't conducted some other type of</p> <p>9 market research. I mean, certainly, surveys are</p> <p>10 used in market research, and that's the information</p> <p>11 and evidence I'm presenting here.</p> <p>12 Q Are you offering an expert opinion in</p> <p>13 this matter in the field of sampling?</p> <p>14 A Well, I mean, every survey draws or</p> <p>15 samples some particular population. So -- but</p> <p>16 independent of the survey I've conducted, I've not</p> <p>17 drawn some other statistical sample and am</p> <p>18 testifying to that.</p> <p>19 Q Okay. And are you offering an expert</p> <p>20 opinion in field of statistical analysis in this</p> <p>21 case?</p> <p>22 A And I would say similarly, other than</p> <p>23 this statistics that I present that are related to</p> <p>24 the survey I've conducted, I have not done some</p> <p>25 separate statistical analysis.</p>	<p style="text-align: right;">Page 29</p> <p>1 Design analysis and critique of surveys</p> <p>2 use to measure consumer perceptions,</p> <p>3 and the materiality of advertising</p> <p>4 claims."</p> <p>5 Are you offering an expert opinion in</p> <p>6 this matter related to those categories?</p> <p>7 A Yes. The survey that I designed</p> <p>8 evaluates the materiality, or the impact of the</p> <p>9 authentication statements that Nike has alleged are</p> <p>10 misleading to consumers.</p> <p>11 Q And are you offering an opinion in this</p> <p>12 matter related to a survey that measures consumer</p> <p>13 perceptions?</p> <p>14 A I have not conducted a consumer</p> <p>15 perceptions survey in this matter, no.</p> <p>16 Q What types of surveys have you used to</p> <p>17 measure materiality of advertising claims? Can you</p> <p>18 describe them?</p> <p>19 A Not sure what you mean by types of</p> <p>20 surveys.</p> <p>21 Q Okay. You don't have a way to describe</p> <p>22 them, or do you call them by a certain name?</p> <p>23 A No, I mean, I think it depends on what</p> <p>24 you're trying to evaluate what the claims are, what</p> <p>25 hypothesis you're testing.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q Okay. What type of materiality of the</p> <p>2 advertising claims in this case, what kind of</p> <p>3 surveys did you design?</p> <p>4 A So I designed a survey that has both the</p> <p>5 test and a control to evaluate whether the</p> <p>6 authentication statements would have an impact on</p> <p>7 consumers purchasing intentions.</p> <p>8 Q And would you describe that type of</p> <p>9 survey with a certain name?</p> <p>10 A I think I probably describe it as I just</p> <p>11 described it.</p> <p>12 Q Okay. Are you familiar with the term</p> <p>13 "purchase interest survey"?</p> <p>14 A As a general description, sure.</p> <p>15 Questions that evaluate consumers' purchase</p> <p>16 interest. Those are types of questions one can ask,</p> <p>17 yes.</p> <p>18 Q Is it fair to say that you conducted a</p> <p>19 purchase interest survey in this case?</p> <p>20 A Again, I mean, I think the survey has an</p> <p>21 experimental component, so it evaluates and isolates</p> <p>22 the impact of particular statements related</p> <p>23 certainly to consumers' purchasing intentions.</p> <p>24 Q Have you designed -- actually, strike</p> <p>25 that. Let me ask that a different way.</p>	<p style="text-align: right;">Page 32</p> <p>1 The in re: Marriott. Perhaps the Morris</p> <p>2 v. Walmart. Page nine, Hartman v. Volkswagen. I</p> <p>3 believe the Blaufuss, B-L-A-U-F-U-S-S, v. Toyota. I</p> <p>4 believe Teststone, T-E-S-T-O-N-E, v. Barlean's. Lee</p> <p>5 v. Stubhub. I believe Benson v. Newell. Bailey v.</p> <p>6 Rite Aid.</p> <p>7 On ten, Maldonado v. Apple. Cardenas v.</p> <p>8 Toyota.</p> <p>9 Perhaps Lewis v. Rodan & Fields.</p> <p>10 I think Stockinger v. Toyota. Allegra v.</p> <p>11 Luxottica. Johannessohn, so it's</p> <p>12 J-O-H-A-N-N-E-S-S-O-H-N, v. Polaris.</p> <p>13 I think those are the majority of them.</p> <p>14 Q Okay. So for each one of those matters</p> <p>15 you identified, you designed and conducted a survey</p> <p>16 that measured consumer purchasing intentions?</p> <p>17 A I -- it may have measured other things as</p> <p>18 well, but there were certainly questions related to</p> <p>19 purchase intentions, yes.</p> <p>20 Q Okay. Excuse me. Can you turn back to</p> <p>21 page two of your CV please?</p> <p>22 A Okay.</p> <p>23 Q At the top there, under the heading</p> <p>24 Antitrust.</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 31</p> <p>1 Can you turn to page three of your CV</p> <p>2 where you list expert analysis and testimony, and</p> <p>3 identify any matters that involve designing a</p> <p>4 consumer survey to measure consumer purchasing</p> <p>5 interest, or intentions as you put it?</p> <p>6 A So I believe the matter on page four, the</p> <p>7 Tamara Moore v. Mars Petcare.</p> <p>8 Shenkman v. Tesla may have had some</p> <p>9 purchasing questions.</p> <p>10 And Vanzant and PetSmart.</p> <p>11 I certainly looked at purchasing</p> <p>12 intentions in the NFL League Sunday Ticket antitrust</p> <p>13 litigation.</p> <p>14 Q Sorry, can you just back up a moment.</p> <p>15 What was the first one did you say? The vans or --</p> <p>16 A Sorry, Vanzant.</p> <p>17 Q -- Vanzant.</p> <p>18 A Sorry, so the one above the NFL. So on</p> <p>19 page six, at the bottom.</p> <p>20 Q I see. So both the Vanzant matter and</p> <p>21 the NFL matter involved a survey that was measuring</p> <p>22 consumer purchasing intentions?</p> <p>23 A Yes. In different ways, but, yes. I</p> <p>24 believe the -- on page eight, the Gross v. Vilore,</p> <p>25 V-I-L-O-R-E, Foods and Company.</p>	<p style="text-align: right;">Page 33</p> <p>1 Q The first bullet says:</p> <p>2 (As read):</p> <p>3 "Design, analysis and critique of</p> <p>4 surveys and other market research.</p> <p>5 Used as evidence of consumer purchasing</p> <p>6 and switching behavior in the areas</p> <p>7 CPG, entertainment, automobiles, public</p> <p>8 transportation, sports, and consumer</p> <p>9 electronics."</p> <p>10 Do you see where I'm reading from?</p> <p>11 A Yes.</p> <p>12 Q When you say "used as evidence of</p> <p>13 consumer purchasing and switching behavior," what</p> <p>14 does that mean?</p> <p>15 A So I think oftentimes -- at least it's</p> <p>16 been my experience in antitrust cases there is a</p> <p>17 question related to what products consumers would</p> <p>18 see as substitutes. So that's what that statement</p> <p>19 is related to.</p> <p>20 Q Okay. And that's different than the</p> <p>21 consumer purchasing intentions survey that you ran</p> <p>22 in this case, correct?</p> <p>23 A If you mean this survey was -- the survey</p> <p>24 in this particular matter, meaning the Nike StockX</p> <p>25 matter, was not designed to evaluate what products</p>

<p style="text-align: right;">Page 90</p> <p>1 Correct?</p> <p>2 A That's correct.</p> <p>3 Q What does that mean?</p> <p>4 A So experimental design means I can</p> <p>5 isolate the impact of the authentication statements</p> <p>6 relative to any other aspects of the stimuli or the</p> <p>7 survey itself that could potentially affect</p> <p>8 respondents' answers.</p> <p>9 Q And the other factors that could</p> <p>10 potentially affect the respondents' answers are</p> <p>11 those things that you listed here such as price of</p> <p>12 the goods, variety of products or other sources of</p> <p>13 survey noise?</p> <p>14 A Potentially.</p> <p>15 Q Okay. What is "survey noise"?</p> <p>16 A Survey noise is the term that we</p> <p>17 generally use for responses that are unrelated to</p> <p>18 the things that we are trying to test. They include</p> <p>19 things like guessing, inattention, potential demand</p> <p>20 effects.</p> <p>21 Q And how do you ensure that the survey</p> <p>22 that you designed and implemented here was not</p> <p>23 affected by survey noise such as demand effects or</p> <p>24 guessing or inattention?</p> <p>25 A By using a test and a control. That's</p>	<p style="text-align: right;">Page 92</p> <p>1 Q What does that mean?</p> <p>2 A Well, if you have a hypothesis you can</p> <p>3 have an alternative hypothesis. So if your</p> <p>4 hypothesis is coffee gives you energy, the</p> <p>5 alternative hypothesis could be people with more</p> <p>6 energy just tend to drink coffee, therefore, they</p> <p>7 seem more energetic.</p> <p>8 Q What is your hypothesis in this case?</p> <p>9 A So the hypothesis I am testing is the</p> <p>10 extent to which the authentication statements</p> <p>11 have -- and not making any actual assumption as to</p> <p>12 whether they do or don't, but I'm certainly testing</p> <p>13 whether or not the authentication statements have an</p> <p>14 impact on consumer behavior.</p> <p>15 Q Are there alternative hypothesis that you</p> <p>16 could have tested to impact -- to determine the</p> <p>17 impact of consumer behavior here?</p> <p>18 A If I understand your question. I don't</p> <p>19 know why I would have tested some other set of</p> <p>20 alternative hypotheses. I'm testing the impact of</p> <p>21 the authentication statements. So that's the goal</p> <p>22 of the test.</p> <p>23 Q Would a consumer's preexisting beliefs</p> <p>24 based on past experience with StockX impact the</p> <p>25 hypothesis that you were testing?</p>
<p style="text-align: right;">Page 91</p> <p>1 the purpose of the control.</p> <p>2 Q Okay. And why is that important to use a</p> <p>3 proper control?</p> <p>4 A Well, in this circumstance, using a</p> <p>5 proper control allows me to isolate and evaluate the</p> <p>6 impact of the authentication statements holding all</p> <p>7 else constant.</p> <p>8 Q Are there other factors besides the ones</p> <p>9 you listed in footnote 8 that could influence</p> <p>10 respondents' answers to the survey?</p> <p>11 A Potentially. But again, having a control</p> <p>12 that changes nothing but the statements that are at</p> <p>13 issue controls for whatever those other factors may</p> <p>14 be.</p> <p>15 Q Does a control help to eliminate</p> <p>16 alternative explanations for the survey results?</p> <p>17 A Not sure what you mean by "alternative</p> <p>18 explanations." I mean, what the control allows me</p> <p>19 to do is to, again, evaluate the extent to which the</p> <p>20 statements I'm trying to test have an impact on</p> <p>21 consumer behavior.</p> <p>22 Q Are you familiar with the phrase</p> <p>23 "alternative hypothesis," in the context of the</p> <p>24 surveys?</p> <p>25 A Sure.</p>	<p style="text-align: right;">Page 93</p> <p>1 A Well, potentially. But we have a test</p> <p>2 and a control so to the extent that somebody comes</p> <p>3 with a set of preexisting beliefs for whatever</p> <p>4 reason, again, those people are randomly assigned to</p> <p>5 test in the control. And so that impact is held</p> <p>6 constant across the two groups and only thing we're</p> <p>7 testing is the impact of the authentication</p> <p>8 statements.</p> <p>9 Q So you believe that the control that you</p> <p>10 designed as part of your survey properly accounted</p> <p>11 for any of the respondent's preexisting beliefs</p> <p>12 based on their past experience with StockX?</p> <p>13 A Well, one, I think you're making an</p> <p>14 assumption as to some set of preexisting beliefs</p> <p>15 related to StockX. I think we have -- I forget how</p> <p>16 many, but a somewhat smaller number of respondents</p> <p>17 who indicate they actually have used StockX in the</p> <p>18 past.</p> <p>19 But, yes. The purpose of a control is to</p> <p>20 control for any other explanations other than what</p> <p>21 we're testing, because people are randomly assigned</p> <p>22 to view the test stimulus or the control stimulus.</p> <p>23 Q How many respondents that qualified for</p> <p>24 your survey had previously used StockX?</p> <p>25 A So respondents aren't qualified</p>

<p style="text-align: right;">Page 102</p> <p>1 to what extent consumer purchasing 2 decisions were affected by the 3 allegedly false claims. And, I 4 understand from counsel, that no other 5 Nike expert submitted such a study." 6 Do you see that? 7 A Yes. 8 Q And based on your earlier testimony am I 9 understanding you correctly that you did not conduct 10 a consumer perception survey to evaluate or assess 11 whether or to what extent purchasing decisions were 12 affected by the allegedly false claims in this case? 13 A I'm sorry. You're asking, I did not? 14 Q Yes. 15 A No. In fact, I did do a study to 16 evaluate the extent to which consumer purchasing 17 decisions would be affected by the allegedly false 18 claims. 19 Q Okay. That seems to be different than 20 what you told me earlier this morning when I asked 21 you whether you conducted any consumer perception 22 studies as part of your work in this case. You said 23 no, correct? 24 A Sorry. So by consumer perception studies 25 in that context.</p>	<p style="text-align: right;">Page 104</p> <p>1 that accurate? Did you mean to say something else? 2 A It's certainly not inaccurate, because 3 it's described as what is the perception or the 4 behavior we're trying to measure. And in this 5 context, it's whether or to what extent consumer 6 purchasing decisions were affected by allegedly 7 being false claims. And that's certainly what my 8 study evaluates. 9 Q Okay. Mr. Hansen didn't undertake a 10 similar study, right? 11 A That's correct. 12 Q And you're offering your survey that you 13 designed and implemented as rebuttal to Mr. Hansen, 14 correct? 15 A I think as we discussed at length, yes, 16 my study is responsive to Mr. Hansen. 17 Q Okay. Is it fair to characterize the 18 survey that you designed and implemented in this 19 case as a purchase interest survey? 20 A I'm not sure what you mean by that 21 characterization, but yes, certainly the survey asks 22 respondents how likely would they be to use the 23 website to purchase a pair of sneakers. It's not 24 just how interested you are. So it is how likely 25 would you use the site to make a purchase.</p>
<p style="text-align: right;">Page 103</p> <p>1 Q Uh-huh. 2 A I believe we were talking about 3 perceptions as to perceptions of a particular 4 statement, what is its meaning. 5 Q Okay. 6 A But certainly here, as I clarify or 7 indicate, a consumer perception study essentially 8 designed to assess whether or to what extent 9 consumer purchasing decisions were affected by the 10 allegedly false claims. That's, in fact, what I 11 studied. 12 Q Okay. So you did conduct a consumer 13 perception study as part of your engagement in this 14 case. Yes? 15 A I did not you conduct a perception study 16 to evaluate consumers' understanding of the 17 particular claims. I certainly conducted a consumer 18 purchasing or perception study or impact study as to 19 the false claims. I mean, that's what the study was 20 designed to do, is to evaluate the extent to which, 21 as I say in paragraph 15, whether or to what extent 22 consumer purchasing decisions were affected by the 23 allegedly false claims. 24 Q Is your use of the phrase "consumer 25 perception study" in paragraph 15, is that -- is</p>	<p style="text-align: right;">Page 105</p> <p>1 Q Is there a different characterization 2 other than purchase interest survey that you would 3 use? 4 A I think it's a likelihood of purchase or 5 purchase intention. 6 Q And I think earlier this morning when we 7 were going through your CV, you identified several 8 cases in which you had designed and implemented 9 similar likelihood of purchasing or purchase 10 intention studies; is that fair? 11 A I don't want to necessarily represent 12 that they are similar. I mean, obviously they are 13 tailored to the particular products and the 14 particular survey design I used. But yes, I listed 15 a number of cases in which I evaluated purchase 16 interest and purchase intention. 17 Q And are you aware for what purpose a 18 likelihood of purchase or purchase intention survey 19 has in a false advertising place? 20 A Aware. Sorry? 21 Q Sure. Are you aware of what purpose a 22 likelihood purchase or purchase intention survey has 23 in a false advertising case? 24 A So it's been my experience that a 25 purchase intention survey tends to address claims of</p>

<p style="text-align: right;">Page 106</p> <p>1 materiality, so the extent to which a particular 2 advertising claim has or has not had an effect on 3 consumer behavior. 4 Q In this case did you test for the 5 importance of any particular product features on 6 consumer likelihood of purchase or purchase 7 intention? 8 A So if I understand your question, no. 9 The survey is not designed to evaluate a particular 10 feature of a product. It is evaluating, again, 11 whether or not the presence or absence of these 12 particular statements would have an effect on 13 consumer behavior. 14 Q Okay. And your survey doesn't test the 15 relative importance of any of the false and/or 16 misleading advertising claims on the consumer's 17 likelihood of purchase or purchase intention, 18 correct? 19 A Well, it certainly tests the overall 20 extent to which the advertising claims would have on 21 effects on consumer purchasing behavior. 22 Q But you didn't test the relative 23 importance of any one individual advertising claim 24 on a consumer's likelihood of purchase or purchase 25 intention, correct?</p>	<p style="text-align: right;">Page 108</p> <p>1 maybe I would say it should be designed this way and 2 maybe it should be designed in a different way. I 3 certainly think the results we have here demonstrate 4 that not only are these claims not primary, they 5 don't have an impact. 6 Q Are you familiar with the term "purchase 7 driver survey"? 8 A Yes. 9 Q What is a purchase driver survey? 10 A A purchase driver survey can list a whole 11 series of attributes. I mean, it can be done 12 different ways. But it can list a whole series of 13 attributes and ask respondents to kind of somehow 14 place them in terms of relative importance. 15 Q And that's not the type of study that you 16 implemented and designed here, correct? 17 A No. It's not designed as a survey to 18 list a whole series of attributes that are unrelated 19 to the statements that we're testing and evaluate 20 the extent to which those other attributes are 21 important to consumers. That's not relevant for 22 what I'm testing. All I'm testing is whether or not 23 the authentication statements have an impact or 24 don't have an impact on consumers' purchasing 25 behavior.</p>
<p style="text-align: right;">Page 107</p> <p>1 A So it's not designed to test the relative 2 impact of one claim versus another. Given that the 3 results demonstrate the claims have no impact. 4 Again, zero to zero is zero. 5 Q Okay. If you were asked to design and 6 implement a study to determine whether a particular 7 advertising claim was the primary reason impacting a 8 consumer's likelihood of purchase or purchase 9 intention, what kind of survey would you design? 10 A Well, I think certainly the results that 11 we have from this survey demonstrates it's not only 12 not primary it doesn't have an impact at all. So 13 the results of this survey can answer the question 14 as to whether or not these claims are primary reason 15 or any reason for consumers' purchasing behavior. 16 Q Okay. So if you were asked to design and 17 implement the study to determine whether a 18 particular advertising claim was the primary reason 19 impacting a consumer's likelihood of purchase or 20 purchase intention, you would design the exact study 21 you created here? 22 A Not necessary -- I mean, as a broad 23 hypothetical I don't know what other claims you're 24 talking about, what the advertising is, what other 25 evidence there is. So as a broad hypothetical,</p>	<p style="text-align: right;">Page 109</p> <p>1 Q Okay. You would agree that you did not 2 design and implement a survey here to test any other 3 attributes of the StockX website to evaluate the 4 relative importance on consumer purchasing behavior, 5 correct? 6 A That's correct. Again, for my purposes, 7 evaluating other aspects of the StockX website, 8 other characteristics of its design, I mean, all of 9 those things are, in fact, purposely held constant 10 between the test and the control. Because the 11 research is designed to answer the question as to do 12 these authentication statements have an impact on 13 consumer behavior or not. 14 Q How does a purchase driver survey differ 15 from a likelihood of purchasing or purchase 16 intention study? 17 A Well, as we've been describing, I mean, 18 the type of purchase intention study here is, again, 19 focused on evaluating whether a particular set of 20 claims does or does not have an impact. For my 21 purposes here, again, I'm not trying to understand 22 whether consumers like the color of StockX's website 23 or the font it uses or the prices it offers. I 24 mean, all of those things again are purposely held 25 constant between the test and the control, so I can</p>


<p style="text-align: right;">Page 126</p> <p>1 even at sample sizes of 50. So certainly 409, two 2 hundred in each group, is a sufficient amount of 3 data to evaluate whether there is a statistically 4 significant difference between the distribution of 5 responses between the two populations. 6 Q Did you consider any factors about the 7 population to which you are trying to extrapolate 8 when deciding that 409 respondents were a sufficient 9 population for this study? 10 A So if I'm understanding your question, I 11 have not extrapolated with a confidence interval 12 around the results here to some other population. 13 The study is designed to evaluate whether there is a 14 statistically significant difference between the two 15 groups that are being measured. And we have 16 sufficient amounts of data to allow us to evaluate 17 whether the variation between the purchase intention 18 between these two groups is statistically 19 significantly different. 20 Q Okay. When you say you "have not 21 extrapolated with a confidence interval around 22 results here to some other population," what do you 23 mean? 24 A Well, you're using the word extrapolation 25 which to me means I have a point estimate here</p>	<p style="text-align: right;">Page 128</p> <p>1 A So the survey was designed -- or the 2 sample was selected using what we call click 3 balancing. 4 Q Okay. What is click balancing? 5 A So click balancing means that the 6 invitations to the survey are sent to a random 7 sample of U.S. adults, 18 years and older, whose 8 demographic characteristics broadly reflect the 9 demographic characteristic of the U.S. population. 10 Q Okay. Anything else besides the click 11 balancing? 12 A Well, then certainly we ask a series of 13 screening questions to ensure that respondents are 14 qualified. 15 Q Okay. And, so, I believe you said this 16 earlier, the relevant population that you intended 17 to sample from was U.S. consumers that were 18 years 18 of age or older, who have purchased a pair of 19 sneakers from StockX since 2020, or who are likely 20 do so in the next year; is that right? 21 A Not quite. No. So respondents needed to 22 indicate -- if you look at again, Exhibit D. 23 Q So before you move onto Exhibit D? 24 A Sure. 25 Q I was reading from paragraph 18 of your</p>
<p style="text-align: right;">Page 127</p> <p>1 around which I've created some confidence interval 2 because I'm extrapolating it to some broader 3 population. That's not a calculation I have as part 4 of this report. 5 Q Okay. So the results of your study, you 6 are not extrapolating them to apply to some broader 7 population; is that right? 8 A I have not performed a statistical 9 extrapolation with a confidence interval. Again, 10 the word extrapolation to me means a very particular 11 thing. 12 Q Okay. 13 A So that's not an estimate. That's part 14 of my report. 15 Q Uh-huh. 16 A Do I think these results are applicable 17 to a consumer population? Of course, I mean, that's 18 purpose of having a sufficient sample size, random 19 assignment across a broad array of demographic 20 characteristics that allow you to test whether or 21 not these authentication statements would have 22 impact on consumer behavior or not. 23 Q Okay. What did you do in this case to 24 identify the sample of the relevant population that 25 you wanted to test?</p>	<p style="text-align: right;">Page 129</p> <p>1 report. So is there something that I misstated 2 there? 3 A Oh. So, no. But I think the population 4 includes individuals who have also purchased from 5 other online -- third-party online websites. 6 Q That's not what it says here in paragraph 7 18; does it? 8 A No, it doesn't include that it's possible 9 that respondents also purchased from other 10 third-party online websites, but that's certainly 11 clear from the screening questions that are 12 described -- if you go to paragraph 22 to qualify -- 13 sorry. Third sentence, starting: 14 (As read): 15 "To qualify for the survey, respondents 16 needed to currently reside in the 17 United States and be 18 years or older. 18 Respondents also had to indicate they 19 have purchased a pair of sneakers from 20 a third-party online marketplace, e.g., 21 Ebay or GOAT since 2020, or are likely 22 to do so within the next year. 23 Respondents also had to specifically 24 indicate that they had or would 25 consider purchasing a pair of sneakers</p>

<p style="text-align: right;">Page 182</p> <p>1 indicates "Every item. Every time." Certainly on 2 page 8 we have, "we authenticate, we authenticate, 3 and you get paid." I think that's correct. 4 Q Okay. So is it fair to say that you 5 didn't test this verbatim advertising claim in this 6 survey? 7 A That is fair to say that we did not test 8 the exact statement, "We authenticate. Every item. 9 Every time." There is certainly a number of 10 iterations of we authenticate that I tested. 11 Q Okay. How about the following bullet: 12 (As read): 13 "Shop on StockX with complete 14 confidence knowing that every purchase 15 is verified authentic, period." 16 Where does that appear on Exhibit F? 17 A I don't believe that exact statement is 18 included in the test. Again, certainly there is a 19 number of references to verified authentic, but the 20 portion of this statement, "Shop on StockX with 21 complete confidence," I don't believe that was part 22 of the -- that verbatim statement was part of the 23 test. 24 Q Okay. How about the next one, 25 "100 percent authentic"?</p>	<p style="text-align: right;">Page 184</p> <p>1 I think, a more recent version of products that are 2 for sale. 3 Q So if I'm understanding you correctly, 4 you took a Wayback Machine capture and then spliced 5 it together with more a recent capture of the StockX 6 homepage? 7 A That's correct. In terms of the Wayback 8 image that was available associated with this 9 particular banner, the image was really poor. It 10 wasn't constructed. So we couldn't see the graphics 11 associated with it. So here we used a kind of more 12 recent image. 13 Q So you created a stimulus that wasn't 14 actually used in the real world; is that correct? 15 A So it's a stimulus, I think, that 16 certainly depicts how the -- this particular banner 17 appeared in the context of the StockX homepage. But 18 the products that are included as part of the 19 homepage, I think, are more recent products for 20 sale. 21 Q Okay. And, so no consumer in the real 22 world saw this stimulus, correct? 23 A That particular banner with these 24 particular products for sale? Not that I'm aware 25 of, but again, my understanding is that this banner</p>
<p style="text-align: right;">Page 183</p> <p>1 A Sure. That's on page 23. Page 12. Page 2 7. I think that's correct. 3 Q And the next one, "Buy and sell authentic 4 sneakers"? 5 A That's on page three, at the very top. 6 Q Okay. Anywhere else? 7 A No, I believe that's -- that's where it 8 appears at the top banner on the homepage. 9 Q Again, I'm going to skip the following 10 one, "Buy authentic, be authentic" which you said 11 you didn't test that verbatim claim. 12 A That's correct. 13 Q Last one, "On StockX, comma, every 14 sneaker you want is always available and authentic"? 15 A Yes. That's on page 20. 16 Q Anywhere else? 17 A I don't believe so. 18 Q So turning to page 3 of Exhibit F. 19 A Okay. 20 Q You titled this one on page 2 as "The 21 Homepage," right? 22 A Yes. 23 Q Where did you get this stimulus from? 24 A So the banner, I believe, is from the 25 Wayback Machine, and then the pages themselves are,</p>	<p style="text-align: right;">Page 185</p> <p>1 appeared in this particular way on the homepage. 2 MR. MILLER: Can we mark that Exhibit 4. 3 THE STENOGRAPHIC REPORTER: Exhibit 4. 4 (Exhibit 4 marked for identification.) 5 BY MR. MILLER: 6 Q Okay. So for this particular stimulus at 7 page 16, footnote 39 of your report. 8 A Yes. 9 Q You provided a URL for the Wayback 10 Machine, correct? 11 A I believe so, yes. 12 Sorry. It's okay to look at the record 13 now. 14 Q Yes. 15 A Which page. 16 Q Page 16, footnote 39. 17 A Okay. 18 Q Okay. The Exhibit 4 you've been handed 19 by the court reporter is a printout of that URL 20 that's referenced in your report, at exhibit -- I'm 21 sorry. At page 16, footnote 39. 22 Does that look accurate to you? 23 A It may. I would have to go back and look 24 at it. I mean, certainly there is at least one of 25 the images that looks like it's unavailable.</p>

<p style="text-align: right;">Page 186</p> <p>1 Q Okay.</p> <p>2 A I believe when we looked at it maybe</p> <p>3 there were more unavailable images.</p> <p>4 Q Okay. Does this -- so this printout is,</p> <p>5 at Exhibit 4, doesn't look like what you're</p> <p>6 recalling seeing when you went to that same URL?</p> <p>7 A I don't want to represent that I recall</p> <p>8 exactly what it looked like. I certainly see here</p> <p>9 there is an image that's missing. I believe my</p> <p>10 recollection was that there were more images that</p> <p>11 were missing.</p> <p>12 Q And, so, the fact that there were images</p> <p>13 missing from Wayback Machine capture at this URL was</p> <p>14 reason why you spliced in a lower portion of the</p> <p>15 StockX homepage from a more recent time; is that</p> <p>16 fair?</p> <p>17 A Rather than guess or kind of create</p> <p>18 images that we weren't able to identify? Yes, we</p> <p>19 added the homepage, or the banner that's at issue</p> <p>20 here, in the exact same way it appeared to a more</p> <p>21 recent version of the StockX page.</p> <p>22 Q Okay. And why did you want to test this</p> <p>23 particular banner?</p> <p>24 A So my understanding was it was a banner</p> <p>25 that -- or a header that appeared on the homepage</p>	<p style="text-align: right;">Page 188</p> <p>1 A Correct. The --</p> <p>2 Q -- so that would be --</p> <p>3 A -- five pages.</p> <p>4 Q So with respect to homepage, that would</p> <p>5 be contents that appears on page three, of Exhibit</p> <p>6 5, four, and five, correct?</p> <p>7 A It is the content that appears across</p> <p>8 those PDF pages, yes. But it's not shown as</p> <p>9 separate pages. It's shown as a website would, so</p> <p>10 you scroll up and down.</p> <p>11 Q Okay. What was the -- what was the</p> <p>12 reason for you selecting ten seconds as the minimum</p> <p>13 of time that a respondent had to spend reviewing</p> <p>14 each of the web pages in the stimuli?</p> <p>15 A So we certainly want a minimum delay.</p> <p>16 Respondents could look at a page as long as they</p> <p>17 wanted, and of course, when they are asked the</p> <p>18 questions -- or the question as to their purchasing</p> <p>19 intention, they are provided with all of the pages.</p> <p>20 So ten seconds seemed like an appropriate minimum.</p> <p>21 But respondents could certainly look at the pages</p> <p>22 for longer than that. And, of course, when they're</p> <p>23 answering the question as to their likelihood of</p> <p>24 purchasing, they are shown the thumbnails of each of</p> <p>25 the pages and as well, they can click and open any</p>
<p style="text-align: right;">Page 187</p> <p>1 and it includes the buy and sell authentic sneakers</p> <p>2 at the top of the page. And that was one of the</p> <p>3 statements Nike has claimed to be at issue in</p> <p>4 interrogatory 22.</p> <p>5 Q Okay. The stimulus that the respondents</p> <p>6 saw for the StockX homepage that we see here in</p> <p>7 Exhibit F, this is not -- the StockX homepage as it</p> <p>8 exists today does not look like this, right?</p> <p>9 A My understanding is it does not, that it</p> <p>10 includes buy and sell authentic sneakers at the top</p> <p>11 of it. That's correct.</p> <p>12 Q Do you know when that header was removed</p> <p>13 by StockX?</p> <p>14 A I don't, no.</p> <p>15 Q Okay. Do you know whether -- do you know</p> <p>16 whether consumers -- actually, strike that.</p> <p>17 As part of the design of your survey, you</p> <p>18 required each respondent to spend a minimum of ten</p> <p>19 seconds looking at this stimulus, correct?</p> <p>20 A Looking at each of the pages. That's</p> <p>21 correct, yes.</p> <p>22 Q And when you say "each of the pages,"</p> <p>23 you're referring to the web pages --</p> <p>24 A That's --</p> <p>25 Q -- correct --</p>	<p style="text-align: right;">Page 189</p> <p>1 of those pages to review them again.</p> <p>2 Q Did you track in your data whether any of</p> <p>3 the respondents clicked on those thumbnails when</p> <p>4 they were answering a question about purchase</p> <p>5 interest?</p> <p>6 A So I believe we printed out the data.</p> <p>7 I'm not sure if the data map is here. But I believe</p> <p>8 those data are recorded.</p> <p>9 Q Okay.</p> <p>10 A Sorry. It looks like these are data but</p> <p>11 maybe not the data map. So I can't quite tell from</p> <p>12 what you've printed out, but it should be in the</p> <p>13 data.</p> <p>14 Q Okay. Is a minimum of ten seconds delay</p> <p>15 on each page of the stimuli a standard number that</p> <p>16 you use in most surveys that you design?</p> <p>17 A No. I mean, in some surveys I don't</p> <p>18 require a minimum at all. In this circumstance, I</p> <p>19 wanted to be sure that at a minimum respondents were</p> <p>20 examining each of the pages for at least ten</p> <p>21 seconds. Again, they certainly could take as much</p> <p>22 time as they wanted and they had the ability to</p> <p>23 review the pages when answering the question.</p> <p>24 MR. MILLER: We've been going about an</p> <p>25 hour. Let's just take a quick five-minute break off</p>

<p style="text-align: right;">Page 202</p> <p>1 represent pages consumers might see. There are also 2 pages about the process and they include a whole 3 range of the different statements or variations of 4 statements that Nike has claimed to be false or 5 misleading. 6 Q And why did you put these five web pages 7 in the particular order that you did in the survey? 8 A So the homepage comes first, because 9 that's generally a kind of reasonable way that 10 consumers start looking at the site. And the pages 11 then are the next -- sorry. The next two pages are 12 obviously the pages about how the process works, as 13 if somebody were learning about how to purchase or 14 how the process works on the page. 15 And then they are shown an array of 16 products and then a specific product. Again, of 17 course, all of these pages are available when the 18 respondent is answering the question in whatever 19 form they want to look at them. 20 Q What is the basis for the testimony you 21 just gave that a user visiting the homepage first is 22 generally a kind of reasonable way that they start 23 looking at the website? 24 A So, over 20 years of doing consumer 25 research, many consumers start by looking at a</p>	<p style="text-align: right;">Page 204</p> <p>1 driven, or have caused all consumers to purchase 2 products. So I'm evaluating whether or not these 3 statements within the context which they occur on 4 the website would have an effect on consumers' 5 purchasing behavior. 6 Q If you could turn to Exhibit D to your 7 report please. 8 A Okay. 9 Q And, so, question two in your survey, 10 this asks respondents to rank how likely they 11 would -- how likely they would be to use the StockX 12 website to purchase a pair of sneakers, correct? 13 A That's correct. 14 Q And for that you use the seven-point 15 scale -- 16 A That's correct. 17 Q -- that's shown at the top of page 13, 18 right? 19 A Sorry. Yes, that's correct. 20 Q Why did you decide to use a question like 21 question two for this survey? 22 A So Likert scales, of which this is, are 23 well-researched, well-used in survey research and 24 psychological research as a means by which to 25 evaluate a whole series of behaviors or questions.</p>
<p style="text-align: right;">Page 203</p> <p>1 homepage of a site that they might use to purchase a 2 product. 3 Q Did you review any documents or data from 4 StockX that would support your belief that most 5 consumers start by visiting the StockX.com homepage? 6 A I don't think I offered an opinion that 7 StockX's consumers necessarily start at StockX's 8 homepage. Certainly the order in which these pages 9 are shown to respondents is held constant between 10 the test and the control. And the pages display a 11 range of the statements Nike has alleged to be at 12 issue, held constant between the test and the 13 control and respondents can look at any of the pages 14 when answering the question that they are 15 particularly interested in. 16 Q Did you look at any StockX documents that 17 would provide any information about how consumers 18 view these pages, if they view them at all? 19 A So if your question is simply do I have 20 some data as to the rate at which people view 21 particular pages within StockX? No. Again, for the 22 purpose of my survey, I'm using these different 23 pages to evaluate Nike's claim, or perhaps more 24 specifically, Mr. Hansen's claim, that the types of 25 allegedly false or misleading statements have</p>	<p style="text-align: right;">Page 205</p> <p>1 So they are well-founded. It allows me to look at a 2 distribution across a range of data as opposed to 3 asking a question of -- as opposed to let's say, 4 asking a binary question. So those are probably the 5 primary reasons. 6 Q And question three, the respondents were 7 asked after question two, and this is an open-ended 8 question, right? 9 A That's correct. 10 Q And they were asked to explain what makes 11 you say that your likelihood of using this website 12 to purchase a pair of sneakers would be, and then it 13 fills in the ranking that they applied, correct. 14 A That's correct. 15 Q What is an open-ended question? 16 A An open-ended question is a question that 17 does not provide respondents with a set of response 18 options. It requires them to provide some kind of 19 narrative or verbatim response. 20 Q And why did you decide to include an 21 open-ended question in your survey? 22 A So open-ended questions provide a set of 23 data that can be used to evaluate respondents' 24 thinking or reasoning behind a prior answer. I 25 mean, depending on the context, open-ended questions</p>

<p style="text-align: right;">Page 218</p> <p>1 objection from Ms. Butler or from counsel, it's part 2 of her report. 3 MR. FORD: That's fine. 4 THE WITNESS: It's fine with me. Thank 5 you. 6 MR. MILLER: No problem. 7 BY MR. MILLER: 8 Q Anyhow, back to Exhibit G. If you could 9 turn to the printout and flip to Page 54. 10 A Okay. 11 Q And I want to focus on row 278. 12 A Okay. 13 Q Which is a respondent number 657551366, 14 which you can confirm by flipping back to the first 15 page. 16 A You mean, like, actually page one? 17 Q Well, the first page to see the -- I'm 18 sorry, not the first page but the -- let me get you 19 the row number -- or the page number. Page 14. 20 A Okay. So I see the respondents ID. 21 Q Okay. And this respondent was in the 22 control group, correct? And for that I'm looking at 23 column CQ on Page 54. 24 A I don't think you have the variable 25 names. Are they on the first page? No. Oh, yes,</p>	<p style="text-align: right;">Page 220</p> <p>1 So that particular respondent may be interpreting a 2 description of inspection as related to 3 authenticity. 4 MR. MILLER: Okay. Subject to any 5 redirect from your counsel, I do not have any 6 further questions. 7 EXAMINATION 8 BY MR. FORD: 9 Q Ms. Butler, just very briefly, Mr. Miller 10 asked you questions at the very beginning of the day 11 about your prior experience with the StockX website 12 before you were retained as an expert in this case. 13 Do you recall that? 14 A Yes. 15 Q Would you have qualified for your survey 16 based on the screener questions that you provided to 17 respondents? 18 A No. 19 MR. FORD: Nothing further from me. 20 MR. MILLER: Okay. No further questions. 21 MR. FORD: Great. 22 THE VIDEOGRAPHER: This concludes today's 23 deposition of Sarah Butler. The number of media 24 used was four and will be retained by Veritext Legal 25 Solutions. The time is 4:51 p.m. We're off the</p>
<p style="text-align: right;">Page 219</p> <p>1 they are. Okay. So CQ is the cell. That is 2 correct. Okay. So CQ respondent that's in row. 3 Q 278. 4 A 278. 5 Q Uh-huh. 6 A Okay. Is a control respondent. 7 Q Column BW, of row 278, shows the verbatim 8 response to question three? 9 A Yes. 10 Q Okay. And, so this control group 11 respondent's verbatim response to question three 12 says: 13 (As read): 14 "For authenticity, comma, StockX uses 15 it's authenticators to ensure that all 16 products on its shelves are properly 17 sourced and, sold as genuine." 18 A I see that, yes. 19 Q Can you explain why this control group 20 respondent provided that verbatim answer? 21 A So I don't have a question that asks that 22 respondent why did you provide that answer. I can 23 look to see what this particular respondent's other 24 experiences are. But that's the answer they 25 provided for exhibit -- oh, sorry, question three.</p>	<p style="text-align: right;">Page 221</p> <p>1 record. 2 3 (Whereupon the deposition concluded at 4:51 p.m.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: right;">Page 222</p> <p>1 I, SARAH BUTLER, do hereby declare under 2 penalty of perjury that I have read the foregoing 3 transcript; that I have made any corrections as 4 appear noted, in ink, initialed by me, or attached 5 hereto; that my testimony as contained herein, as 6 corrected, is true and correct. 7 EXECUTED this _____ day 8 of _____, 9 20____, at _____, _____. 10 (City) (State) 11 12 13 SARAH BUTLER 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 224</p> <p>1 ***ERRATA SHEET*** 2 NAME OF CASE: NIKE V. STOCKX 3 DATE OF DEPOSITION: 8-15-23 4 NAME OF WITNESS: SARAH BUTLER 5 Reason codes: 6 1. To clarify the record. 7 2. To conform to the facts. 8 3. To correct transcription errors. 9 Page ____ Line ____ Reason ____ 10 From ____ to ____ 11 12 Page ____ Line ____ Reason ____ 13 From ____ to ____ 14 15 Page ____ Line ____ Reason ____ 16 From ____ to ____ 17 18 Page ____ Line ____ Reason ____ 19 From ____ to ____ 20 21 Page ____ Line ____ Reason ____ 22 From ____ to ____ 23 24 SARAH BUTLER 25</p>
<p style="text-align: right;">Page 223</p> <p>1 I, the undersigned, a Certified Shorthand 2 Reporter of the State of California, do hereby 3 certify: 4 That the foregoing proceedings were taken 5 before me at the time and place herein set forth; 6 that any witnesses in the foregoing proceedings, 7 prior to testifying, were duly sworn; that a record 8 of the proceedings was made by me using machine 9 shorthand, which was thereafter transcribed under my 10 direction; further, that the foregoing is a true 11 record of the testimony given. 12 I further certify I am neither financially 13 interested in the action nor a relative or employee 14 of any attorney or party to this action. 15 IN WITNESS WHEREOF, I have this August 18, 16 2023 subscribed my name. 17 18 19  20 21 ASHLEY SOEVYN 22 CSR No. 12019 23 24 25</p>	

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
9:15	you've testify at trial	You've testified at trial	Transcription Error
10:12	Sketchers	Skechers	Typographical Error
10:15	Sketchers	Skechers	Typographical Error
10:20	Sketchers	Skechers	Typographical Error
11:2	Sketchers	Skechers	Typographical Error
11:10	the names of though cases	the names of those cases	Transcription Error
11:12	Maldanado , M-A-L-D-A-N-A-D-O	Maldonado , M-A-L-D-O-N-A-D-O	Clarification
11:16	Maldanado v. Apple	Maldonado v. Apple	Clarification
12:15	Maldanado v. Apple	Maldonado v. Apple	Clarification
13:15	Mr. Hanson's	Mr. Hansen's	Typographical Error
20:9	race in ethnicity	race and ethnicity	Transcription Error
21:5-6	I started as research associate	I started as a research associate	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
21:11	spent a year in Integrated Marketing	spent a year at Integrated Marketing	Transcription Error
21:24-25	mostly medical professionals	mostly of medical professionals	Transcription Error
22:13	other expert's survey work	other experts' survey work	Typographical Error
25:1	managing director	managing directors	Transcription Error
26:24	market research sampling	market research, sampling	Typographical Error
27:23	this statistics	the statistics	Transcription Error
29:14-15	consumer perceptions survey	consumer perception survey	Transcription Error
29:24	what you're trying to evaluate what the claims are,	what you're trying to evaluate, what the claims are,	Typographical Error
30:4-5	the test and a control	a test and a control	Transcription Error
30:7	consumers purchasing intentions	Consumers' purchasing intentions	Typographical Error
30:10	I think I probably describe it	I think I'd probably describe it	Transcription Error

Deposition Date: 8/15/2023

Deponent: Sarah Butler – Errata Sheet

Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
31:25	Foods and Company	Foods Company	Transcription Error
32:4	Teststone	Testone	Transcription Error
32:5	Stubhub	StubHub	Typographical Error
32:7	Maldanado	Maldonado	Clarification
33:3-6	Design, analysis and critique of surveys and other market research. Used as evidence of consumer purchasing and switching behavior	Design, analysis and critique of surveys and other market research used as evidence of consumer purchasing and switching behavior	Typographical Error
34:2	In second bullet	In the second bullet	Transcription Error
35:1-2	one to evaluate the value attributable to a particular attributes .	one to evaluate the value attributable to a particular attribute .	Transcription Error
35:23	Journal: Applied Economic letters	Journal of Applied Economics letters	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
35:24-36:1	publications: The Survey Response Bias and The Privacy Paradox, and The Value of Non-Personally Identifiable Information to Consumers.	publications: “Survey response bias and the ‘privacy paradox,’” and “The value of non-personally identifiable information to consumers.”	Typographical Error
36:4	intensions.	intentions.	Typographical Error
36:23-24	National Advertising Divisions panel	National Advertising Division’s panel	Typographical Error
37:4	Antitrust Trial Newsletter	Antitrust Trial Practice Newsletter	Transcription Error
38:5	that's not just listed	that's just not listed	Transcription Error
38:6	actuals sites	actual sites	Transcription Error
39:10-12	at the time I wrote the report, yes. It contains my full set of opinions.	at the time I wrote the report, yes, it contained my full set of opinions.	Transcription Error
42:18	Ebay	eBay	Typographical Error
42:21	Goop.com	GOAT.com	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
42:22	Ebay.com	eBay.com	Typographical Error
42:23	I'm not	I've not	Transcription Error
45:21	its consumers that defines	its consumers it defines	Transcription Error
45:25	as sneaker head	as sneaker heads	Transcription Error
48:14	statistical analysis	statistical analyses	Transcription Error
48:24	this is list of materials	this is the list of materials	Transcription Error
49:10-11	in anyway	in any way	Typographical Error
51:5-6	it's authentication	its authentication	Typographical Error
51:7-8	Nike Jordan-branded sneakers	Nike/Jordan-branded sneakers	Typographical Error
53:5	experienced deposition and testifier	experienced deposition testifier	Transcription Error
53:8	requires coaching	requires any coaching	Transcription Error
53:16	intensions	intentions	Typographical Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
58:10	consumers willingness	consumers’ willingness	Typographical Error
59:14	consumers interest	consumers' interest	Typographical Error
60:22	misleading claim	misleadingly claiming	Transcription Error
61:9	I'm not undertaken analysis	I've not undertaken an analysis	Transcription Error
61:16	analysis	an analysis	Transcription Error
62:15	mean by isolate.	mean by “isolate.”	Typographical Error
62:16-17	a survey	the survey	Transcription Error
62:19-20	consumers interest	consumers’ interest	Typographical Error
63:2	consumers willingness	consumers’ willingness	Typographical Error
63:15	that tested	that you tested	Transcription Error
65:1	If there is some other ways	If there is some other way	Transcription Error
66:3	To inform response	To inform a response	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
66:9	Robert V	Robert Vigil	Transcription Error
68:16-18	related to authentication and verification process	related to the authentication and verification process	Transcription Error
68:20-21	StockX's websites	StockX's website	Transcription Error
68:21	during relevant time period	during the relevant time period	Transcription Error
70:2-4	statements that Nike identified in its interrogatory response. But used the combination at times over the words "verification in conjunction with authentication."	statements that Nike identified in its interrogatory response that used the combination at times of the words "verification" in conjunction with "authentication."	Transcription Error / Clarification
70:6-8	That use the words "authentication process and verification process"? Or just authentication and verification process.	That use the words "authentication process and "verification process"? Or just "authentication and verification process"?	Typographical Error
70:13	also I indicate	also as I indicate	Transcription Error
71:16	totally different	wholly different	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
72:1	beyond its websites	beyond its website	Transcription Error
73:1-5	I'm trying to understand why you phrased what your study was testing as influencing consumers' decisions to use the site to purchase sneakers as opposed to influencing consumers' decisions to purchase sneakers?	I'm trying to understand why you phrased what your study was testing as “influencing consumers' decisions to use the site to purchase sneakers” as opposed to “influencing consumers' decisions to purchase sneakers?”	Typographical Error
73:18-19	consumers likelihood	consumers’ likelihood	Typographical Error
73:25-74:3	If your question is, is the survey designed to evaluate consumers’ general interest in purchasing sneakers at all other places. That's not what the survey is focused on.	If your question is, “is the survey designed to evaluate consumers’ general interest in purchasing sneakers at all other places,” that's not what the survey is focused on.	Typographical Error
74:11	difference in test sneaker	difference in the test sneaker	Transcription Error
75:5	the StockX websites	the StockX website	Transcription Error
75:22-23	the StockX websites	the StockX website	Transcription Error
76:7-8	the StockX websites	the StockX website	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
79:2	Now you've made it incorrect.	No , you've made it incorrect.	Transcription Error
79:4-5	asked on survey	asked in the survey	Transcription Error
79:8	Based on information you reviewed	Based on the information you reviewed	Transcription Error
79:17-18	using a websites	using a website	Transcription Error
80:25- 81:1	were likely to purchase or had either used or are -- were willing to consider	were likely to purchase and/or had either used or were willing to consider	Transcription Error
85:7	Mr. Hansen's is articulating	Mr. Hansen is articulating	Clarification
86:11	Mr. Hansen's assesses	Mr. Hansen assesses	Clarification
86:14	every Nike and Jordan brand goods	every Nike and Jordan brand good	Transcription Error
86:15	sold on it's platform	sold on its platform	Typographical Error
86:16	Mr. Hansen's discusses	Mr. Hansen discusses	Clarification
87:8	I layout	I lay out	Typographical Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
92:18	If I understand your question. I don't	If I understand your question, I don't	Typographical Error
93:4-5	those people are randomly assigned to test in the control	those people are randomly assigned to the test and the control	Transcription Error / Clarification
94:3-4	this is just based on open- ended, but	this is just based on the open- ended responses , but	Transcription Error / Clarification
97:6	how StockX defines it's authentication	how StockX defines its authentication	Typographical Error
98:7	asking me to do those three statements	asking me do those three statements	Transcription Error
98:15	so I simply meant that products	so I simply meant that I understand that products	Transcription Error
100:1	shipped to a seller	shipped from a seller	Clarification
100:11-12	I have not undergone an analysis	I have not undertaken an analysis	Clarification
104:24-25	How likely would you use the site	How likely would you be to use the site	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
105:16	purchase interest and purchase intention	purchase interest or purchase intention	Transcription Error
105:22	likelihood purchase	likelihood of purchase	Transcription Error
106:20-21	the advertising claims would have on effects	the advertising claims would have an effect	Transcription Error
107:14	these claims are primary reason	these claims are the primary reason	Transcription Error
107:22	Not necessary	Not necessarily	Transcription Error
111:3	So we can ask consumers	So we could ask consumers	Transcription Error
112:13	So that the title suggests	So like the title suggests	Transcription Error
112:14-15	ensure again, the data are reliable	ensure that again, the data are reliable	Transcription Error
112:15	the survey is fielding the manner	the survey is fielding in the manner	Transcription Error
116:17-18	anything to do with honest .	anything to do with honesty .	Transcription Error
117:18	a company makes or manufactures shoes	a company that makes or manufactures shoes	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
121:21	whether respondent could read	whether the respondents could read	Transcription Error
122:23	which encompasses those	which encompasses both	Transcription Error
123:18-19	they had to be at least be willing	they had to at least be willing	Clarification
123:21	likelihood to perfect or purchasing intention	likelihood of purchase or purchasing intention	Transcription Error
123:24	My understanding who you're intending to survey	By understanding who you're intending to survey	Transcription Error
127:13-14	So that's not an estimate. That's part of my report.	So that's not an estimate that's part of my report.	Typographical Error
127:21-22	would have impact	would have an impact	Transcription Error
132:6-7	Mr. Hansen's is characterizing	Mr. Hansen is characterizing	Clarification
132:15	Mr. Hansen's is using	Mr. Hansen is using	Clarification
133:10-11	a pair of a sneakers	a pair of sneakers	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
133:14	My understanding is that	My understanding, I think , is that	Transcription Error
133:18	in real world	in the real world	Transcription Error
134:21	I guess I'm in the sure	I guess I'm not sure	Transcription Error
135:12	users of the cite	users of the site	Typographical Error
139:9	We can reweight the data	We can also reweight the data	Transcription Error
139:21	So I compared my population	So have I compared my population	Transcription Error
141:25	data defined it in another way	data defined in some other way	Transcription Error
142:1	geographic portion	geographic proportion	Transcription Error
142:15	defined in some other way	defined in some different way	Transcription Error
142:20	to define it in some other way	defined in some other way	Transcription Error
144:10	that's functionality	that's a functionality	Transcription Error
145:4-5	I don't believe.	I don't believe so .	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
145:15	Who titled this shoe survey?	Who titled this as “shoe survey”?	Transcription Error
145:21	attenuating to the particular client	attuning to the particular client	Clarification
145:23-24	The survey, broadly speaking, not about shoes	It’s a survey, broadly speaking, that’s about shoes	Transcription Error
149:17-18	respondents understanding	respondents’ understanding	Typographical Error
149:21-22	third place marketplace	third- party marketplace	Clarification
150:24	on 48E	on exhibit B	Transcription Error
152:18-19	I think as I indicate my understanding	I think as I indicated , my understanding	Transcription Error
153:15	Because one of the questions is my survey	Because one of the questions in my survey	Transcription Error
158:10	the prospective order	the protective order	Clarification
158:14	exactly callid	exactly called	Typographical Error
159:10-11	on my exhibit,	on my exhibit B ,	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
160:5-6	I believe the quality assurance is not part of any of the statements	I believe “quality assurance” is not part of any of the statements	Transcription Error
160:7-8	I believe maybe the buy authentic be authentic was a statement that wasn't it tested.	I believe maybe that “buy authentic be authentic” as a statement wasn't tested.	Transcription Error
160:18-22	on page 15, I believe, there you will see -- and that's test version, under that, Committed to Quality, you see, Tens of millions -- tens of millions of products at 99.95 percent accuracy rate.	on page 15, I believe, there you will see -- and that's the test version -- under that, “Committed to Quality,” you see, “tens of millions of products at a 99.95 percent accuracy rate.”	Transcription Error / Typographical Error
160:25- 161:1	that's different that the statement	that's different than the statement	Transcription Error
161:12-14	So am I correct that you didn't test the verbatim advertising claim StockX has a 99.96 percent authentication accuracy rate?	So am I correct that you didn't test the verbatim advertising claim “StockX has a 99.96 percent authentication accuracy rate”?	Typographical Error
161:21-22	at 99.95 percent accuracy rate	at a 99.95 percent accuracy rate	Transcription Error

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
161:24- 162:1	the verbatim advertising claim, authenticators maintain a 99.96 percent accuracy rate?	the verbatim advertising claim, “authenticators maintain a 99.96 percent accuracy rate”?	Typographical Error
162:4-5	the tests I have actually has	the test I have actually has	Transcription Error
162:23	100 percent verified, authentic	100 percent verified authentic	Typographical Error
166:7-9	Other than looking at their websites or testing their descriptions on websites; that’s correct.	Other than looking at the website or testing the descriptions on the website ; that’s correct.	Transcription Error / Clarification
167:12-14	I have not asked consumers what their opinion is as to StockX’s core value proposition is to them.	I have not asked consumers what their opinion is as to what StockX’s core value proposition is to them.	Clarification
167:21	in anyway	in any way	Typographical Error
172:12	Not an analysis that I have undertaken	It’s not an analysis that I have undertaken	Transcription Error
173:10-11	Again, I think that’s Mr. Hansen’s is drawing conclusions	Again, I think that Mr. Hansen is drawing conclusions	Transcription Error / Clarification

Deposition Date: 8/15/2023**Deponent: Sarah Butler – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**


Page(s): Line(s)	Now Reads	Should Read	Reason
173:11	Mr. Hansen's is drawing conclusions	Mr. Hansen is drawing conclusions	Clarification
173:16-17	New Response Interrogatory Number 22	Nike Response to Interrogatory Number 22	Transcription Error
174:20	at this very top of the page	at the very top of the page	Transcription Error
178:11-12	authenticators are equipped better than anyone	authenticators are better equipped than anyone	Transcription Error
185:12-13	It's okay to look at the record now.	It's okay to look at the report now?	Transcription Error
187:9-11	My understanding is it does not, that it includes buy and sell authentic sneakers at the top of it.	My understanding is that it does not include "buy and sell authentic sneakers" at the top of it.	Clarification / Typographical Error
192:24-193:1	StockX currently uses StockX verified is our own designation and not endorsed by any brands sold on StockX, or uses some similar statement.	StockX currently uses "StockX verified is our own designation and not endorsed by any brands sold on StockX," or uses some similar statement.	Typographical Error
195:11	indicating that StockX inspected here	indicating that "StockX inspected" here	Typographical Error

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Page(s): Line(s)	Now Reads	Should Read	Reason
197:19	From a consumers' perspective. I'm not evaluating what consumers understand the word authentic or inspected to mean.	From a consumers' perspective? I'm not evaluating what consumers understand the words authentic or inspected to mean.	Transcription Error / Clarification
199:24-25	And it makes sense within context of the pages being tested.	And it makes sense within the context of the pages being tested.	Transcription Error
201:22	they see project array page	they see a project array page	Transcription Error
202:1	There are also	They are also	Transcription Error
206:19-21	If you're asking, does it use exact language you articulated? No, it doesn't ask -- or doesn't tell respondents list every reason.	If you're asking, does it use the exact language you articulated? No, it doesn't ask -- or doesn't tell respondents to list every reason.	Transcription Error
207:8	to use the platforms .	to use the platform .	Transcription Error
209:20-21	your valuation of this data	your evaluation of this data	Transcription Error

I, Sarah Butler, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on August 15, 2023; that I have made such corrections as appear noted herein; and that my testimony as contained herein, as corrected, is true and correct.

DATED this 18th day of September, 2023.



Sarah Butler